

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Reverend Franklin C. Reaves, Ph.D., Vastena Reaves,)	C/A No.: 4:09-817-TLW-SVH
and Donald N. Reaves,)	
)	
Plaintiffs,)	
)	
vs.)	
)	
Robert Stetson, individually and in his official capacity)	
as Fire Chief and Building inspector for City of Mullins;)	Order
Danny Gardner, individually and in his official capacity)	
as Marion County Employee; Dennis Floyd, individually)	
and in his official capacity as Marion County Employee;)	
Donald Bryant, individually and in his official capacity)	
as Marion County Employee; Michael Crouch,)	
individually and in his official capacity as Marion)	
County Employee; Layfayett Reed, individually and in)	
his official capacity as Marion County Employee; City of)	
Mullins, Marion County,)	
)	
Defendant(s).		

This matter is before the Court because of Plaintiffs' failure to comply with the Order entered in this case on April 21, 2009, within the time for compliance set under the Order.

Under the April 21st Order, Plaintiffs were directed to submit certain items required to bring this case into proper form. Plaintiffs were directed to complete a summons for defendant "City of Mullins" and also for "Marion County." Additionally, plaintiffs were directed to complete, sign, and return Forms USM-285 for every defendant listed in the above-captioned matter. None of the items have been submitted to the Court as directed.

Plaintiffs were also specifically warned that this case would be dismissed if they failed to fully comply with the Order. The final deadline for Plaintiffs' compliance was set for May 18, 2009. That date has now passed without any further communication from any of the Plaintiffs.

Applying the four-factor test of *Davis v. Williams*, 588 F.2d 69, 70 (4th Cir. 1978) to the circumstances of this case, it is clear that the failure of Plaintiffs to fully comply with the Order in this case (Doc. # 9) within the time permitted under that Order indicates an intent by the Plaintiffs not to prosecute this case.

Accordingly, this case is, hereby, dismissed *without prejudice* due to Plaintiffs' failure to comply with this Court's Order and failure to prosecute the case. *See* Fed. R. Civ. P. 41(b)(district courts may dismiss an action if a plaintiff fails to comply with "any order of the court."); *see also Ballard v. Carlson*, 882 F.2d 93, 95 (4th Cir. 1989)(dismissal with prejudice appropriate where warning given); *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir. 1982)(court may dismiss *sua sponte*). Furthermore, the Plaintiffs' Motion to Issue Subpoenas is denied.

IT IS SO ORDERED.

s/Terry L. Wooten
United States District Judge

August 31, 2010
Florence, South Carolina